

Before the
Office of the United States Trade Representative
Washington, D.C.

In re

Initiation of a Section 301 Investigation of
France's Digital Services Tax

Docket No. USTR-2019-0009

**NOTICE OF INTENT TO TESTIFY AND PROPOSED HEARING STATEMENT OF
COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION (CCIA)**

Pursuant to the request for comments published by the Office of the United States Trade Representative in the Federal Register at 84 Fed. Reg. 34,042 (July 16, 2019), the Computer & Communications Industry Association (CCIA) submits the following notice of intent to testify and proposed hearing statement in relation to the Section 301 Investigation of France's Digital Services Tax.

The name, identifying information, and contact information of CCIA's proposed witness follows. A proposed hearing statement is attached.

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Proposed Oral Statement of Matthew Schruers, CCIA

Thank you for this opportunity to convey CCIA's views in regard to the Administration's Section 301 investigation of France's recently imposed Digital Services Tax, or "DST." CCIA is a trade association of Internet and technology firms, many of whom export goods and services around the world.

CCIA welcomes the review of France's decision to target U.S. technology firms and supports the Section 301 investigation of French Law No. 2019-759, dated July 24, 2019, commonly referred to as the French digital services tax. In the United States, officials and lawmakers across the spectrum have made clear their disapproval of the French tax. France's action warrants a substantial, proportionate response from the United States.

This testimony focuses on three concerns with the tax addressed in more detail in CCIA's written submission: *first*, the discriminatory nature of the DST and France's motivation to target U.S. firms, *second*, its significant departure from international taxation norms, and *third*, the threat the tax poses to the ongoing process to reach an international tax solution to the challenges of global economic digitalization.

First, the DST targets predominantly U.S. firms. French policymakers have frequently referred to it as a "GAFA" tax (a European moniker to describe Google, Amazon, Facebook, and Apple and other leading American firms). The thresholds were set at arbitrary levels, with the apparent goal of ensuring that foreign companies would shoulder the vast majority of this new tax burden. Only one French firm is expected to fall in the scope of the tax, out of a reported thirty firms in total. The discriminatory nature of the tax raises questions about France's compliance with international commitments under tax treaties, WTO commitments, and EU law.

Second, the DST departs from international norms on tax policy and the EU's recent decision not to pursue a similar unilateral measure. Historically, corporate taxes have been levied where value is created, not where it is consumed. If this were to change, governments should seek consensus on the methodology and degree to which taxation rights should shift.

The DST is a three percent tax on revenue generated from specific activities carried out in France. Firms are required to make complex determinations on whether covered digital activities were “supplied in France” based on ambiguous guidelines in the law. This could lead to different interpretations by firms and tax authorities as to the scope of the tax. The DST’s retroactive nature will also add to the administrative burden, since firms do not regularly collect data associated with location for purposes of tax compliance. These concerns led to the EU’s decision not to pursue a similar digital tax late last year.

Third, the French DST and other unilateral measures threaten to undermine the progress made at the global level on international tax reform. CCIA is encouraged by the OECD’s significant strides toward addressing the tax challenges arising from the digitalization, using an inclusive and consensus-driven process. CCIA supports an ambitious, comprehensive and a long-term solution by 2020 that does not ring-fence the digital economy. Industry is committed to this important process and remains optimistic that the end result will provide certainty needed to enhance investments, trade and growth globally.

In conclusion, CCIA welcomes the scrutiny of France’s pursuit of a discriminatory tax against U.S. companies, before other countries pass their own unilateral measures.